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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/510,038

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Erich Fuderer

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EXAMINER

RASHID, MAHBUBUR

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

06/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,038

Applicant(s)

FUDERER ET AL.

Examiner

MAHBUBUR RASHID

Art Unit

3683

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-8 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claims 1, 2, 9 and 10 are canceled.

Claims 22, 4, 5, 12, 13, 15 and 20 are amended.

Claim Objections

Claims 3, 6, 13-16 and 18-22 are objected to because of the following informalities:

- In line 4 of claim 3, "its" – is not clear.
- In line 2 of claim 6, "the other conical surface" – is not clear.
- In line 3 of claim 13, "the other screw part" – is not clear.
- In line 2 of claim 14, "the other screw part" – is not clear.
- In lines 2 and 4 of claim 15, "the other screw part" – is not clear.
- In line 3 of claim 16, "the other screw part" – is not clear.
- In line 2 of claim 18, "the other screw part" – is not clear.
- In line 2 of claim 19, "the other screw part" – is not clear.
- In line 3 of claim 20, "the other screw part" – is not clear.
- In line 2 of claim 21, "another free wheel" – is not clear.
- In line 17 and 18 of claim 22, "the other screw part" – is not clear.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 10, 13 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 3 depends on the canceled claim 2.
- Claim 10 depends on the canceled claim 10.
- Claim 13 depends on the canceled claim 2,
- In line 17 of claim 22, "the second stop" - is not clear if the applicant is referring it as the second stop position or something else.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3-8, 11-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Blosch et al.* (US 6,012,556) in view of *Gordon et al.* (US 5,086,884).

Regarding **claims 3-8, 11-19 and 22**, *Blosch* discloses a brake application system (fig. 1) comprising: a wear adjuster (48 and 50), a spindle (56), spindle drive (58), a nut (60), an actuating device (20), motor (22 and 50), gear-wheel gear (52) and a gear segment (28).

Blosch does not disclose the clutch in the actuation mechanism of the brake, but *Gordon* provides this well know alternative mechanism in the area of elements (62, 66, 68, 69). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted (adapted) this actuating device for the one of *Blosch* at (56 and 60) since such a modification would merely amount to the substitution of one well know type of actuating mechanism for another dependent upon the particular application for the brake.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Blosch et al.* (US 6,012,556) in view of *Gordon et al.* (US 5,086,884) as applied to claims 3-8, 11-19 and 22 above, and further in view of *Akamatsu et al.* (US 5,799,757).

Regarding claims 20 and 21, *Blosch* discloses all claimed elements as set forth above, but fails to disclose a spring free wheel. However, *Akamatsu* discloses a brake

Art Unit: 3683

device (fig. 2) with a free wheel spring clutch arrangement at (16 or 30, 31). Note the two motors at (11) and (19) (which control the function of the spring). Such a motor/gear/wear adjuster arrangement could be substituted for the same arrangement in a device as Blossch, as the replacement of one well known actuating mechanism for another.

Response to Arguments

Applicant's arguments with respect to claims 3-8 and 11-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAHBUBUR RASHID whose telephone number is (571)272-7218. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mhr

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3683